

FILED

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF FLORIDA
HAMMOND DIVISION

2016 MAY -3 PM 2:19

In re:

BARRY HAYWOOD,

Case No. 13-21360-JPK

Debtor.

Chapter 13

**MULTIBANK 2009-1 RES-ADC VENTURE, LLC'S RESPONSE
IN OPPOSITION TO THE DEBTOR'S OBJECTION TO CLAIM NO. 3**

Creditor Multibank 2009-1 RES-ADC Venture, LLC ("Multibank"), by and through undersigned counsel, files this response in opposition to the Debtor's Objection to its Claim No. 3 (the "Objection") [D.E. 84], and in support would show the Court as follows:

1. On April 24, 2013, the Debtor filed for Chapter 13 bankruptcy relief.
2. On August 19, 2013, Multibank 2009-1 RES-ADC Venture, LLC timely filed its Proof of Claim No. 3 in the unsecured amount of \$120,092.72.
3. The Debtor's confirmed Amended Chapter 13 Plan [D.E. 66] provides for non-priority unsecured creditors to be paid 100 cents on the dollar.
4. On November 13, 2013, the Debtor's counsel filed an Attorney Review of Claim [D.E. 82], which indicated that all proof of claims had been examined and that an objection shall be filed to any disputed claims.
5. It was not until April 6, 2016, however, that the Debtor filed the Objection to Multibank's claim, which asserts as follows:

2) Pursuant to 11 U.S.C. 506, creditor has mischaracterized the nature of debt as unsecured. The debt is secured by property located at 594 Andover Street, Gary IN [sic]...and the valuation of the asset is equal to or exceeds the amounts owed.

3) Creditor has failed to substantiate the calculated amounts shown on page 4 of the Proof of Claim.

4) Debtor disputes the amounts purportedly owed to creditor.

6. First, Multibank's claim was properly filed as unsecured. Although the claim is secured by a mortgage on real property located at 594 Andover Street, Chicago Heights, IL 60411, that property is not owned by the Debtor and therefore the claim is not secured in this case. Indeed, both the Debtor's Schedules [D.E. 14] and Amended Schedules [D.E. 65] correctly list Multibank's claim in Schedule F under the name of its servicer Quantum Servicing Corporation in the unsecured amount of \$69,000.00, acknowledging that the Debtor does not own the real property.

7. Second, Objection's assertion that the valuation of the asset is equal to or exceeds the amounts owed is wholly unsupported. In fact, the 2015 tax assessed value for the real property was \$35,160 and a broker price opinion as of January 19, 2016 suggested a listing price of only \$25,000—both substantially lower than the amount of Multibank's claim. Copies of the county assessor's records and broker price opinion are attached hereto as Exhibit A. As of the date of filing of this response, Multibank has not foreclosed on or otherwise realized any value from the real property.

8. Third, Multibank's properly executed and filed proof of claim is prima facie evidence that the claim is valid. FED. R. BANKR. P. 3001(f). "Once a creditor has filed a claim of prima facie validity ... a bankruptcy court must allow the claim unless a party in interest objects and produces evidence sufficient to rebut the claim." *In re Hood*, 449 F. App'x 507, 509-10 (7th Cir. 2011). Not only is the Debtor's conclusory statement that the amount is in dispute insufficient to rebut Multibank's claim, but the Court is also entitled to construe the Debtor's scheduling of Multibank's claim as unsecured as an admission that the claim is properly classified as unsecured. *See Id.* at 510.

9. Three years since the start of this case, the Debtor may have realized that he either cannot or does not want to treat Multibank's claim in full in accordance with his confirmed plan, but that does not warrant the filing of an unsupported objection to Multibank's claim on negative notice.

WHEREFORE, Multibank respectfully requests that the Court enter an order overruling the Debtor's Objection to Multibank's Claim No. 3, requiring that the Debtor pay the full amount of Multibank's claim in accordance with the confirmed plan, and awarding such further relief as deemed just and proper.

Dated: May 2, 2016

Respectfully Submitted,

JONES WALKER LLP

Attorneys for Multibank 2009-1 RES-ADC Venture, LLC

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By: _____

Ronald D. P. Bruckmann

Florida Bar No. 84912

Pro Hac Vice Admission Pending

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 2nd day of May, 2016, a true and correct copy of the foregoing was served on the parties listed below by first-class United States mail.

/s/ Ronald D. P. Bruckmann

Ronald D. P. Bruckmann

Jonathan Petersen
Law Office of Jonathan Petersen
1544-45th Avenue, Suite 3
Munster, IN 46321
Attorney for Debtor and Objector

Paul R. Chael, Trustee
401 W. 84th Drive, Ste. C
Merrillville, IN 46410
Standing Trustee

EXHIBIT A

[Property Data](#) [Exemption History](#) [Appeal History](#) [Certificate of Error](#)

Property Characteristics

2015 Tax Year Property Information

PIN: 32-30-108-010-0000
Address: 594 ANDOVER ST
City: CHICAGO HEIGHTS
Township: Bloom
Property Classification: 202
Square Footage (Land): 7,488
Neighborhood: 121
Taxcode: 12037



32301080100000 10/07/2007

Assessed Valuation

	2015 Board Certified	2014 Board of Review Certified
Land Assessed Value	1,497	1,497
Building Assessed Value	2,019	2,019
Total Assessed Value	3,516	3,516

Property Characteristics

Estimated 2015 Market Value \$35,160**Estimated 2014 Market Value** \$35,160**Description** One story residence, any age, up to 999 square feet**Residence Type** One Story**Use** Single Family**Apartments** 0**Exterior Construction** Frame**Full Baths** 1**Half Baths** 0**Basement¹** None**Attic** None**Central Air** Yes**Number of Fireplaces** 0**Garage Size/Type²** None**Age** 44**Building Square Footage** 919**Assessment Pass** Board Certified¹ Excluded from building square footage, except apartment² Excluded from building square footage



Standard BPO, Drive-By v2

594 Andover St., Chicago, IL 60411

Please Note: This report was completed with the following assumptions: Market Approach: Fair Market Price, Marketing Time: Typical. Important additional information relating to this report, including use and restrictions, is contained in an attached addendum which is an integral part of this report.

Address	594 Andover St., Chicago, IL 60411			
Borrower Name	BARRY I HAYWOOD	Inspection Date	01/16/2016	Order ID 5062995
Loan Number	7000030416	Date of Report	01/19/2016	Property ID 20765547
		APN	unknown	

Tracking IDs

Order Tracking ID	Quantum BPO Project SS Order #4	Tracking ID 1	MBR001-1807
Tracking ID 2	32-30-108-010-0000. Township: Bloom. Pro	Tracking ID 3	--

I. General Conditions

Property Type	SFR
Occupancy	Occupied
Property Condition	Average
Estimated Exterior Repair Cost	\$0
Estimated Interior Repair Cost	\$0
Total Estimated Repair	\$0
HOA	No

Condition Comments

The subject is a single family residence that appears to be in average condition. It appears to have average quality of construction, curb appeal, and conforms with the neighborhood.

II. Subject Sales & Listing History

Current Listing Status	Not Currently Listed
Listing Agency/Firm	
Listing Agent Name	
Listing Agent Phone	
# of Removed Listings in Previous 12 Months	0
# of Sales in Previous 12 Months	0

Listing History Comments

The subject was last sold on 5/12/2005 was last sold on \$35,000.

Original List Date	Original List Price	Final List Date	Final List Price	Result	Result Date	Result Price	Source
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III. Neighborhood & Market Data

Location Type	Suburban
Local Economy	Stable
Sales Prices in this Neighborhood	Low: \$43,700 High: \$227,450
Market for this type of property	Remained Stable for the past 6 months.
Normal Marketing Days	<90

Neighborhood Comments

The subject is located on a suburban location. It is close to local schools, park districts, and shopping centers.

IV. Current Listings

	Subject	Listing 1	Listing 2 *	Listing 3
Street Address	594 Andover St.	220 Arcadia St	576 W 16th Pl	585 Shelly Ln
City, State	Chicago, IL	Park Forest, IL	Chicago Heights, IL	Chicago Heights, IL
Zip Code	60411	60466	60411	60411
Datasource	Tax Records	MLS	MLS	MLS
Miles to Subj.	--	0.48 ¹	0.28 ¹	0.23 ¹
Property Type	SFR	SFR	SFR	SFR
List Price \$	--	\$17,500	\$25,000	\$35,000
DOM - Cumulative DOM	-- --	323 - 357	145 - 150	59 - 64
Original List Price \$	\$	\$36,500	\$25,000	\$35,000
Age (# of years)	44	64	48	53
Condition	Average	Average	Average	Average
Sales Type	--	Fair Market Value	Short Sale	Short Sale
Style/Design	1 Story ranch	1.5 Stories split level	1 Story ranch	1 Story ranch
# Units	1	1	1	1
Living Sq. Feet	919	1,197	918	980
Bdrm - Bths - ½ Bths	3 - 1	3 - 1	3 - 1	3 - 1
Total Room #	7	5	5	5
Garage (Style/Stalls)	Detached 2 Car(s)	None	Attached 2 Car(s)	Detached 2 Car(s)
Basement (Yes/No)	No	No	No	No
Basement (% Fin)	0%	0%	0%	0%
Basement Sq. Ft.	--	--	--	--
Pool/Spa	--	--	--	--
Lot Size	0.17 acres	0.15 acres	0.15 acres	0.19 acres
Other	n/a	n/a	n/a	n/a

Listing Comments Why the comparable listing is superior or inferior to the subject.

Listing 1 Listing comp 1 is superior to the subject. Listing comp 1 is superior to the subject because it is larger than the subject in gla.

Listing 2 Listing comp 2 is inferior to the subject. Listing comp 2 is inferior to the subject because it is smaller than the subject in gla.

Listing 3 Listing comp 3 is superior to the subject. Listing comp 3 is superior to the subject because it is larger than the subject in gla.

* Listing 2 is the most comparable listing to the subject.

¹ Comp's "Miles to Subject" was calculated by the system.

² Comp's "Miles to Subject" provided by Real Estate Professional.

³ Subject \$/ft based upon as-is sale price.

V. Recent Sales

	Subject	Sold 1	Sold 2 *	Sold 3
Street Address	594 Andover St.	612 W 16th St	1947 Wooster	408 Concord Dr
City, State	Chicago, IL	Chicago Heights, IL	Chicago Heights, IL	Chicago Heights, IL
Zip Code	60411	60411	60411	60411
Datasource	Tax Records	MLS	MLS	MLS
Miles to Subj.	--	0.33 ¹	0.15 ¹	0.42 ¹
Property Type	SFR	SFR	SFR	SFR
List Price \$	--	\$32,000	\$20,500	\$18,500
Sale Price \$	--	\$32,000	\$18,700	\$15,000
Type of Financing	--	Cash	Cash	Cash
Date of Sale	--	11/5/2015	10/9/2015	7/30/2015
DOM · Cumulative DOM	-- · --	56 · 91	177 · 192	43 · 67
Original List Price \$	--	\$32,000	\$27,900	\$19,000
Age (# of years)	44	50	53	48
Condition	Average	Average	Average	Average
Sales Type	--	Fair Market Value	REO	Fair Market Value
Style/Design	1 Story ranch	1 Story ranch	1 Story ranch	1 Story ranch
# Units	1	1	1	1
Living Sq. Feet	919	992	1,066	912
Bdrm · Bths · ½ Bths	3 · 1	3 · 1	3 · 2	3 · 1
Total Room #	7	5	6	5
Garage (Style/Stalls)	Detached 2 Car(s)	Carport 2 Car(s)	Attached 2 Car(s)	Carport 1 Car
Basement (Yes/No)	No	No	No	No
Basement (% Fin)	0%	0%	0%	0%
Basement Sq. Ft.	--	--	--	--
Pool/Spa	--	--	--	--
Lot Size	0.17 acres	0.11 acres	0.36 acres	0.15 acres
Other	n/a	n/a	n/a	n/a
Adjustment	--	+\$0	-\$1,000	+\$0
Adjusted Price	--	\$32,000	\$17,700	\$15,000

Reasons for Adjustments Why the comparable sale is superior or inferior to the subject.

Sold 1 Sold comp 1 is superior to the subject. Sold comp 1 is superior to the subject because it is larger than the subject in gla.

Sold 2 Sold comp 2 is superior to the subject. Sold comp 2 is superior to the subject because it is larger than the subject in gla.

Sold 3 sold comp 3 is inferior to the subject. Sold comp 3 is inferior to the subject because it is smaller than the subject in gla.

* Sold 2 is the most comparable sale to the subject.

¹ Comp's "Miles to Subject" was calculated by the system.

² Comp's "Miles to Subject" provided by Real Estate Professional.

³ Subject \$/ft based upon as-is sale price.

VI. Marketing Strategy

	As Is Price	Repaired Price
Suggested List Price	\$25,000	\$25,000
Sales Price	\$25,000	\$25,000
30 Day Price	\$20,000	--

Comments Regarding Pricing Strategy

Broker came up with the pricing strategy by looking at the 3 sold comps and 3 listed comps and coming up with a fair market value price.

VII. Clear Capital Quality Assurance Comments Addendum

Reviewer's Notes The price is based on the subject being in average condition. Comps are similar in characteristics, located within 0.48 miles and the sold comps closed within the last 6 months. The market is reported as being stable in the last 6 months. The price conclusion is deemed supported.

VIII. Property Images

Address 594 Andover St., Chicago, IL 60411
Loan Number 7000030416

Suggested List \$25,000

Suggested Repaired \$25,000

Sale \$25,000



Subject 594 Andover St.

View Side



Subject 594 Andover St.

View Front

VIII. Property Images (continued)

Address 594 Andover St., Chicago, IL 60411

Loan Number 7000030416

Suggested List \$25,000

Suggested Repaired \$25,000

Sale \$25,000



Subject 594 Andover St.

View Address Verification



Subject 594 Andover St.

View Side

VIII. Property Images (continued)

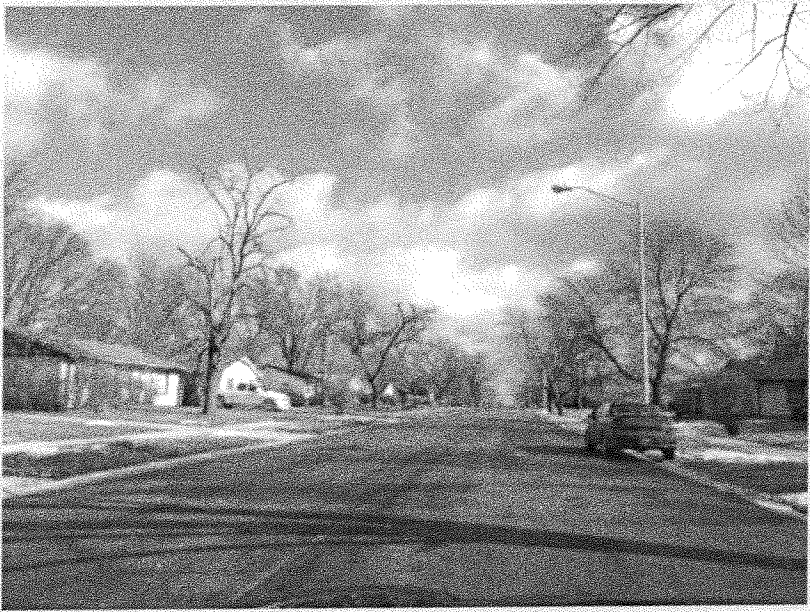
Address 594 Andover St., Chicago, IL 60411

Loan Number 7000030416

Suggested List \$25,000

Suggested Repaired \$25,000

Sale \$25,000



Subject 594 Andover St.

View Street



Subject 594 Andover St.

View Street

VIII. Property Images (continued)

Address 594 Andover St., Chicago, IL 60411

Loan Number 7000030416

Suggested List \$25,000

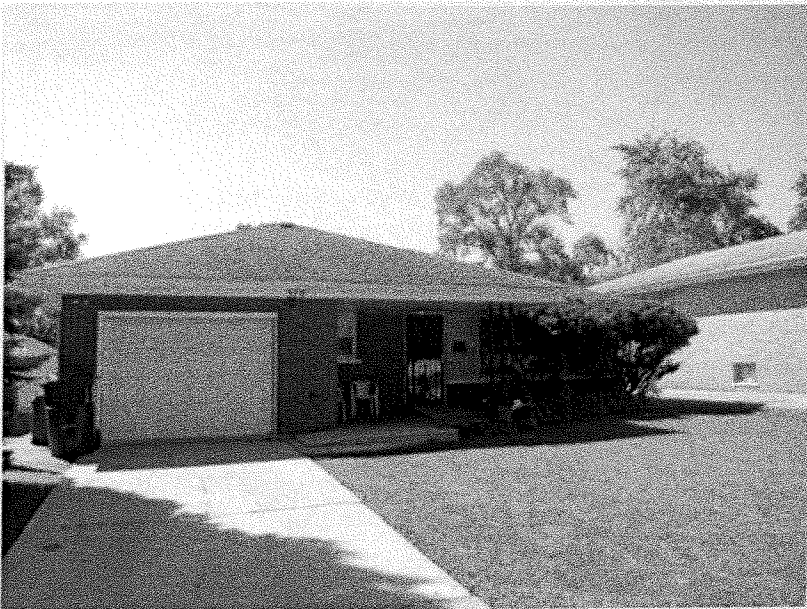
Suggested Repaired \$25,000

Sale \$25,000



Listing Comp 1 220 Arcadia St

View Front



Listing Comp 2 576 W 16th Pl

View Front

VIII. Property Images (continued)

Address 594 Andover St., Chicago, IL 60411

Loan Number 7000030416

Suggested List \$25,000

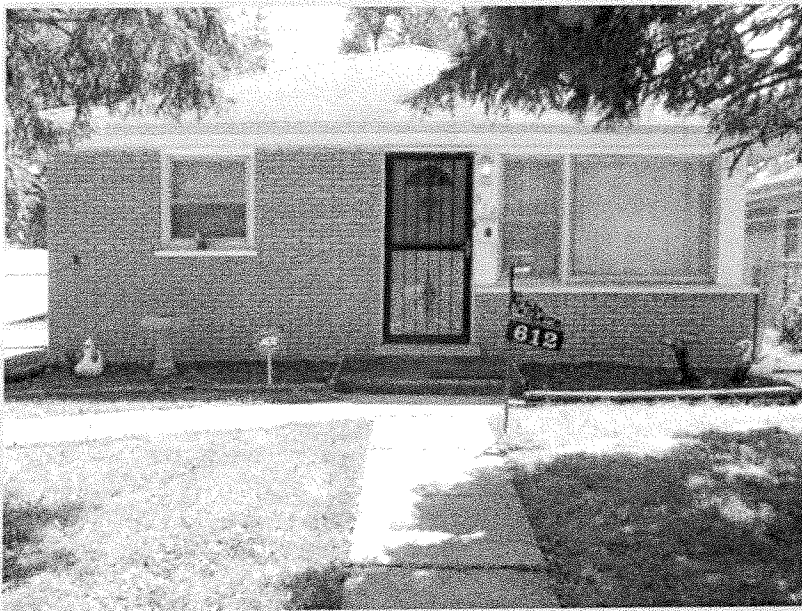
Suggested Repaired \$25,000

Sale \$25,000



Listing Comp 3 585 Shelly Ln

View Front



Sold Comp 1 612 W 16th St

View Front

VIII. Property Images (continued)

Address 594 Andover St., Chicago, IL 60411

Loan Number 7000030416

Suggested List \$25,000

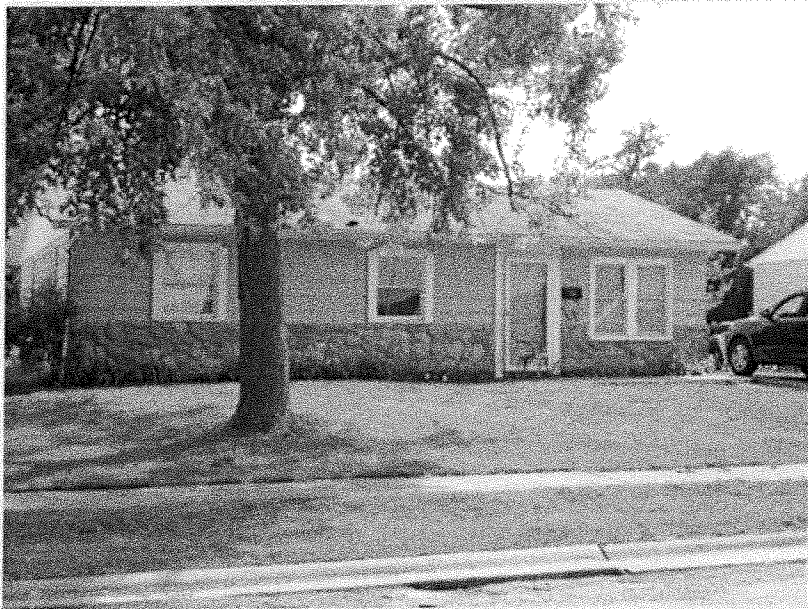
Suggested Repaired \$25,000

Sale \$25,000



Sold Comp 2 1947 Wooster

View Front



Sold Comp 3 408 Concord Dr

View Front

ClearMaps Addendum

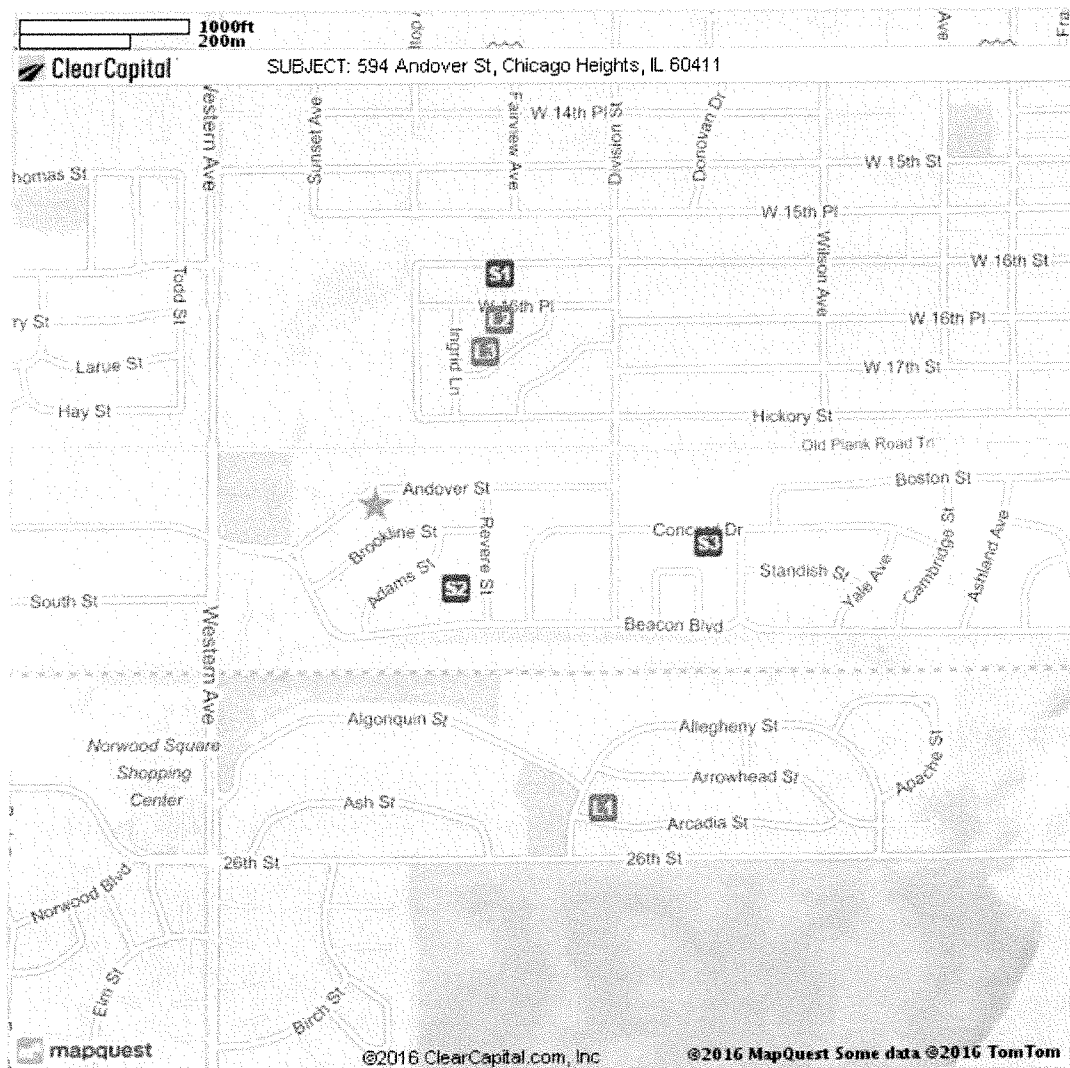
Address ☆ 594 Andover St., Chicago, IL 60411

Loan Number 7000030416

Suggested List \$25,000

Suggested Repaired \$25,000

Sale \$25,000



Comparable	Address	Miles to Subject	Mapping Accuracy
★ Subject	594 Andover St, Chicago Heights, IL	--	Parcel Match
🏠 Listing 1	220 Arcadia St, Park Forest, IL	0.48 Miles ¹	Parcel Match
🏠 Listing 2	576 W 16th Pl, Chicago Heights, IL	0.28 Miles ¹	Parcel Match
🏠 Listing 3	585 Shelly Ln, Chicago Heights, IL	0.23 Miles ¹	Parcel Match
🏠 Sold 1	612 W 16th St, Chicago Heights, IL	0.33 Miles ¹	Street Centerline Match
🏠 Sold 2	1947 Wooster, Chicago Heights, IL	0.15 Miles ¹	Parcel Match
🏠 Sold 3	408 Concord Dr, Chicago Heights, IL	0.42 Miles ¹	Parcel Match

¹ The Comparable "Distance from Subject" value has been calculated by the Clear Capital system.² The Comparable "Distance from Subject" value has been provided by the Real Estate Professional.

Addendum: Report Purpose**Market Approach and Market Time**

The Market Approach of this report, as established by the customer, is: **Fair Market Price**. (See definition below.)

The Marketing Time as specified by the customer is **Typical**. (See definition below.)

Definitions:

Fair Market Price	A price at which the property would sell between a willing buyer and a willing seller neither being compelled by undue pressure and both having reasonable knowledge of relevant facts.
Distressed Price	A price at which the property would sell between a willing buyer and a seller acting under duress.
Marketing Time	The amount of time the property is exposed to a pool of prospective buyers before going into contract. The customer either specifies the number of days, requests a marketing time that is typical to the subject's market area and/or requests an abbreviated marketing time.
Typical for Local Market	The estimated time required to adequately expose the subject property to the market resulting in a contract of sale.

Report Instructions

This section shows the instructions that were approved by the customer and provided to the broker prior to completing the report.

Purpose: Market Price

The purpose of this report is to determine a price at which our mutual customer can sell this property in a typical marketing time. Please recognize that real dollars are at stake. If priced too high to sell, the customer will incur additional holding costs; and if priced too low, it will perpetuate further loss.

Customer Specific Requests:

Please make sure to note if the subject has an HOA and enter the details in the report.

Comparable Requirements:

1. Please use FMV comps that are considered comparable in condition, recent, and are from the same neighborhood, block or subdivision whenever possible.
2. Please try to use comps that have sold in a typical marketing time for the area. If this is not possible please comment in the form and please make appropriate adjustments for exposure time to show what price your comparables would sell for in a typical marketing time for the area.
3. Please use comps that have closed in the past 3 months to show the current market conditions or comment in the report if this is not possible. In rapidly changing markets, active listing comps should be given equal or greater weight than sold comps in your analysis. Please make market condition adjustments to the sold comps as necessary.

Standard Instructions:

1. Clear Capital and our mutual customers greatly appreciate your expertise. If you cannot personally inspect the property, select comparables, and determine a price for the subject, please do not accept this report. Per the BPO Standards and Guidelines adopted by Clear Capital and other industry leaders, the use of assistants to complete any of the aforementioned tasks is not permitted.
 2. Please do not accept if you or your office has completed a report on this property in the last 6 months or are currently listing this property.
 3. Please use the subject characteristics provided in the report Grid (if we preloaded them) to evaluate the property. This information is from a full interior appraisal and is assumed to be most accurate. If your inspection reveals obvious inaccuracies, please explain in the narrative of the report.
 4. If the subject is currently listed, please consider all available information pertaining to the subject's condition. This information should be utilized when developing the assumption of the subject's condition.
 5. Please do not approach the occupants or owners. Thanks!
1. One current, original photo of the front of the subject
 2. One address verification photo
 3. One street scene photo looking down the street
 4. Labeled MLS listing and sold comp photos required; please comment if no MLS.

Broker Information

Broker Name	Eljuanda Jones	Company/Brokerage	Eljuanda Jones
License No	475.150624		
License Expiration	04/30/2016	License State	IL
Phone	773-619-9625	Email	eljuanda2@hotmail.com
		Date Signed	01/18/2016

By containing the above contact and real estate license information and submitting the report, the above signed hereby certifies and agrees that: 1) I personally took the pictures, selected comparables, and determined the price conclusion. 2) To the best of my knowledge, the statements of fact contained in this report are true and correct. 3) The reported analyses, opinions, and conclusions are my personal, impartial, and unbiased professional analyses, opinions, and conclusions. 4) I have no present or prospective interest in the property that is the subject of this report and no personal interest with respect to the parties involved. 5) I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment. 6) My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined price point. 7) I did not base, either partially or completely, my analysis and/or opinion and conclusions in this report on race, color, religion, sex, age, marital status, handicap, familial status, or national origin of either the prospective owners or occupants of the subject property or of the present owners or occupants of the properties in the vicinity of the subject property or on any other basis prohibited by law.

Disclaimer

This document is not an appraisal as defined by USPAP (Uniform Standards of Professional Appraisal Practice). It is not to be construed as an appraisal and may not be used as such for any purpose.

This is a broker price opinion/comparative market analysis, not an appraisal of the market value of the real estate, and was prepared by a licensed real estate broker or managing broker who was not acting as a State certified real estate appraiser.

Unless otherwise specifically agreed to in writing:

The intended purpose of this report is to assist the Clear Capital account holder in making decisions within the scope of applicable statutory and regulatory requirements and performing required due diligence. This document is provided solely for the use of the Clear Capital account holder and not any other party, is not intended as any guarantee of value and/or condition of the subject property and should not be relied on as such. In the event that this document is found to be defective, incorrect, negligently prepared or unfit for its authorized use, Clear Capital's sole liability shall be to promptly refund the total fee expended by the account holder for this report or to replace it at no charge to the account holder, but in no event shall Clear Capital be responsible to the account holder for any indirect or consequential damages whatsoever. This warranty is in lieu of all other warranties, express or implied, except where otherwise required by law. The account holder shall notify Clear Capital within thirty (30) days of this report's delivery to the account holder if it believes that this document is defective, incorrect, negligently prepared or unfit for its authorized use. Under no circumstances may Clear Capital forms or their contents be published, copied, replicated, or mimicked.